Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
8YY Access Charge Reform	)	WC Docket No. 18-156
	)	

REPLY COMMENTS OF FRONTIER COMMUNICATIONS CORPORATION

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REPLY COMMENTS OF FRONTIER COMMUNICATIONS

Frontier Communications Corporation ("Frontier") hereby submits these reply comments in response to the *Further Notice of Proposed Rulemaking* seeking comment on the intercarrier compensation system for telephone calls made to toll free (8YY) numbers.[1]

I. INTRODUCTION AND SUMMARY.

The opening comments reveal widespread agreement.

First, several commenters agree that it makes little sense to turn the 8YY toll-free system upside down – essentially ending toll-free calling altogether – to target just 20 or so bad actors when there are over 1,000 participants in the system. The Commission has several tools at its disposal to target those partaking in arbitrage. And, even if the Commission still wishes to transition away from a toll-free calling system, these tools to target bad actors could still enable the Commission to do so in a more measured and less hasty fashion.

Second, commenters recognize that the Commission's current proposal, especially absent an adequate access recovery mechanism and transition period, would erect a further barrier to the economic challenges around rural broadband deployment. As the Commission explained in 2011 when it originally undertook access recovery reform, "incumbent LECs have limited

[1] *8YY Access Charge Reform*, Further Notice of Proposed Rulemaking, WC Docket Nos. 18-156, FCC 18-76 (released June 8, 2018) ("*FNPRM*").

control over the areas or customers that they serve, having been required to deploy their network in areas where there was no business case to do so absent subsidies, including the implicit subsidies from intercarrier compensation."[2] 8YY originating access charges represent not only the costs of making toll-free calls but also implicit subsidies for rural networks, and too suddenly removing those subsidies, particularly without any reasonable opportunity to recover them, will hurt rural America.

Third, if the Commission nonetheless decides to upend the toll-free calling system, commenters agree that carriers should be able to adjust charges to recoup these expenses, and commenters recognize that incumbent LECs are currently limited in being able to do so. While there is recognition that the right long-term answer is that incumbent LECs should be put on a level playing field and allowed to freely price voice products in response to market competition, the Commission could adjust certain rules to mitigate the worst harms to rural broadband by (a) freezing the 10% annual decline in incumbent LEC eligible recovery; (b) adjusting the access recovery charge; (c) adjusting the residential rate ceiling; and (d) eliminating or adjusting upwards the multi-line business cap on the subscriber line charge plus access recovery charge.

Fourth, there is also widespread agreement that any recovery mechanism and phasedown period should account for losses not only due to end-office and transport originating access charges but also database query charges. Revenues lost due to a database query charge cap represent the exact same policy considerations as other 8YY originating access revenues.

Fifth and finally, if the Commission does embark on widescale 8YY originating access reform, a transition period more similar to the six-year adopted in the *USF-ICC Transformation Order* rather than the proposed three-step, two-year, period, which is less than half as long,

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[2] *Id.*

would better enable carriers and customers to adjust to the significant contemplated changes to the 8YY system.

By first targeting bad actors, or, at a minimum, ensuring that incumbent LECs can compete on a level playing field and ensuring a sufficient transition period with these changes, the Commission can crack down on arbitrage and gaming in the 8YY system without harming rural broadband deployment.

II. COMPLETELY AND HASTILY INVERTING THE 8YY SYSTEM WHEN THERE ARE A LIMITED NUMBER OF BAD ACTORS AND READY TOOLS TO TARGET THEM WOULD INVITE JUDICIAL SCRUTINY.

There is widespread agreement in the record showing that any problems with the current 8YY system and 8YY arbitrage schemes are caused by a relatively small number of bad actors. For example, as AT&T explains, "[o]nly a small number of carriers—23 out of 1084, or two percent—bill the vast majority (90 percent) of database query charges billed to AT&T."[3] Others agree.[4] And as, for instance, AT&T makes clear, ILECs like Frontier are not bad actors.[5]

[3] *See* Comments of AT&T, WC Docket No. 18-156 at 15 (Sept. 4, 2018) ("CLEC 8YY originating access minutes have exploded even as the number of ILEC 8YY originating minutes has declined.").

[4] *See e.g.*, Comments of ITTA – The Voice of America's Broadband Providers, WC Docket No. 18-156 at 3 (Sept. 4, 2018); Comments of West Telecom Services, LLC, WC Docket No. 18-156 at 2 (Sept. 4, 2018); Comments of Windstream Services, LLC, Frontier Communications Corporation, and NTCA – The Rural Broadband Association, WC Docket No. 18-156 at 4 (Sept. 4, 2018) ("*Windstream, Frontier, and NTCA Comments*"); *Ex Parte* Letter from Matt Nodine, AT&T, to Marlene Dortch, FCC, WC Docket No. 16-363 at 10 (June 2, 2017) (representing that 17 carriers accounted for 20% of AT&T's originating access spend in September 2016, while the remaining 80% was attributable for 1,300 remaining carriers).

[5] AT&T Comments at 4.

While the Commission explains that it proposes to essentially eliminate 8YY toll-free originating access charges to eliminate arbitrage and fraud,[6] its current proposals inadvertently ensnare good actors like Frontier. As ITTA puts it, the proposal "presents a classic case of throwing the baby out with the bathwater."[7] Said differently, WTA – Advocates for Rural Broadband explains "rather than initiating enforcement and forfeiture actions against the relatively limited number of CLECs that may be engaging in readily identifiable 8YY fraud and arbitrage, the *FNPRM* proposes instead to punish over a thousand wholly innocent" carriers.[8] Harming all carriers for the bad acts of just a few risks significant judicial scrutiny, especially when there are ready alternatives to target the bad actors.[9] Is there a "rational connection" in harming 1,000 carriers playing by the rules when the articulated target is just a handful of carriers and there are several policy tools available to target those carriers?

The current approach considered by the Commission also would invite significant judicial scrutiny because, as Frontier has previously explained, it "turns the concept of toll-free calling on its head, shifting the costs to end user customers (often rural in Frontier's case) from large businesses that purchase toll free numbers and the providers of toll free services."[10] As

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[6] *See FNPRM* ¶¶ 1-2, 13-14, 24, 35.

[7] ITTA Comments at 4.

[8] Comments of WTA – Advocates for Rural Broadband, WC Docket No. 18-156 at 7 (Sept. 4, 2018).

[9] *See, e.g.*, *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29 (1983) ("[A] an agency must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.").

[10] *Ex Parte* Letter from AJ Burton, Frontier Communications, to Marlene Dortch, FCC, Docket No. 18-156 (May 31, 2018) ("*Frontier May 31 Ex Parte*").

Somos explains, "For more than fifty years, Toll-Free has meant that the calling party does not pay. To change that is to fundamentally change the service, something that would harm the entire Toll-Free industry."[11]

Additionally, the concept of "bill-and-keep" is non-sensical when toll-free calling has always meant calling is free to the party that is placing the call and costs are borne by the called party. Rather than, in the traditional context, both carriers billing their end user customers and keeping the revenues, the IXCs here will bill all of their customers and keep the revenues without ever having to pay for the toll-free services provided by others. As Charter explains, calling the proposal "bill-and-keep" in the context in 8YY does not make sense and "would invert the basic concept of 8YY."[12] As Charter continues, "[t]he statutory basis for bill-and-keep also assumes reciprocal or mutual compensation and cost recovery. In the 8YY context, by contrast, there is neither a mutual recovery to waive nor a mutual benefit to be allocated."[13] Likewise, as ITTA explains, bill-and-keep does not make sense because "8YY traffic is not reciprocal. One carrier's originating traffic does not terminate on another carrier's network."[14] To illustrate, Frontier, which does not have any substantial 8YY business customers, is not asking the largest 8YY providers to originate calls on their network. Whereas in traditional bill-and-keep situations both parties originate and terminate calls and thus receive a mutual benefit, all the benefits to a zero-cost 8YY system flow one way – to the big IXCs. And

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[11] Comments of Somos, Inc., WC Docket No. 18-156 at 2-3 (Sept. 4, 2018).

[12] Comments of Charter Communications, Inc., WC Docket No. 18-156 at 3 (Sept. 4, 2018).

[13] Charter Comments at 4.

[14] ITTA Comments at 7.

it becomes unclear what service the IXCs are providing to the 8YY business they are charging other than providing a vanity number.

Entirely eliminating the toll-free calling system too hastily would especially invite a hard judicial look when the Commission has so many tools to address the twenty parties engaging in arbitrage without imposing significant costs on the additional 1,000+ participants in the system. To take a few such approaches from the opening comments, ITTA suggests that "the Commission could propose caps on the transport mileage between the end office and tandem, and benchmark[] 8YY end office and tandem charges to the rates and charges of the ILEC in the market where the 8YY traffic originates."[15] WTA proposes that the Commission make clear "that entities involved in the origination of unlawful robocalls to 8YY numbers will be identified, prosecuted and fined to the maximum extent permitted by law."[16] Similarly, because revenue-sharing agreements are the source of much arbitrage, Somos suggests that "the Commission could require [revenue-sharing agreements] to be filed with the Commission (either under a protective order or not) to determine whether or not these enable traffic pumping or other fraud."[17]

Other approaches readily come to mind. The Commission could immediately institute enforcement actions against the approximately twenty bad actors. The Commission could require carriers to submit extra proof if they claim year-over-year increases in 8YY calling. Indeed, the Commission could look back several years as a benchmark and peg rates and access revenues to figures present several years ago as a proxy for suspicious increases in traffic. The

[15] ITTA Comments at 4.

[16] WTA Comments at 4-5.

[17] Somos Comments at 4.

Commission could also look at a reasonable originating to terminating traffic ratio, such as the 3:1 ratio it has used in other contexts. Or it could use some combination of those tools or others at its disposal.

Given all of these potential approaches, it is especially odd and problematic to quickly reduce originating toll-free access charges to zero or close to zero. This is especially true when the large IXCs and large business customers have a ready strategy for avoiding paying the costs associated with toll-free calling – that is, stop purporting to offer toll-free services and procure other vanity numbers.

III. THE COMMISSION'S CURRENT PROPOSAL WOULD INTRODUCE A BARRIER TO RURAL BROADBAND DEPLOYMENT.

The record reveals widespread agreement that eliminating originating 8YY access charges drains funding from rural broadband deployment. With understandably, and by definition, limited capital dollars, direct reductions in revenues, such as the 8YY access reductions contemplated by the Commission, translate directly to reduced dollars for spending on infrastructure. For carriers like Frontier with large rural footprints, this means fewer dollars for rural broadband deployment.

Rural carriers agree that the Commission's proposal poses a threat to rural broadband. For instance, as ITTA explains, "if the Commission applies bill-and-keep to originating 8YY traffic, without replacement of this significant revenue stream, the financial distress, especially of rural LECs, will increase, thus making them less capable of servicing existing debt and further hindering their ability to make the investments required to deploy broadband."[18] Likewise, as WTA explains, "[t]he proposed 8YY originating access revenue reductions could not come at a

[18] ITTA Comments at 17.

worse time. The ongoing transition from a predominately copper-based voice network to a more and more fiber-based broadband network has been neither easy nor inexpensive."[19] And as Frontier, together with Windstream and NTCA – The Rural Broadband Association, discusses in our opening comments, cutting legitimate 8YY revenues "directly moves funding from the capital budgets underlying rural broadband and next-generation network deployments."[20]

While, as discussed further below, the Commission should make the appropriate regulatory changes so that incumbent LECs may recover these lost revenues, increased costs for consumers still place significant pressures on rural broadband networks. With big companies no longer paying the costs of "toll free" calls, all customers will have to subsidize the costs of these calls (whether or not they place 8YY calls). Put differently, 8YY originating revenues represent an implicit subsidy for expensive rural networks, and the costs of eliminating those payments will flow through to subscribers of those networks. The increased customer bill, in turn, increases pressures on customer churn and, relatedly, customer revenues. Commenters agree – if the IXCs and the businesses purchasing 8YY service are no longer paying for the costs of these 1-800 calls, the costs will flow through to consumers, particularly rural consumers, while at the same time draining funding for deployment.[21]

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[19] WTA Comments at 7.

[20] *Windstream, Frontier, and NTCA Comments* at 13.

[21] ITTA Comments at 10 (explaining that "if charges for ostensibly toll-free calls are embedded in LECs' rates, consumers who do not even place 8YY calls will end up subsidizing them nonetheless, rather than the businesses and their customers that primarily benefit from the 8YY calls"); Comments of Nebraska Rural Independent Companies, WC Docket No. 18-156 at 15 (Sept. 4, 2018) (recognizing that the considered reforms "would mean that [rural] customers would be faced with paying higher rates regardless of whether they actually initiate 8YY calls"); Charter Comments at 2 (explaining that ending 8YY originating access "would also place originating carriers in the untenable position of either absorbing or passing through those costs to their end users. These costs should be borne by the subscribers to 8YY service—not end users");

Simply put, shifting the costs of "toll-free" calling on to end users is bad for rural broadband deployment.

IV. IF THE FCC NONETHELESS ENDS THE 8YY TOLL-FREE SYSTEM, PROVIDING INCUMBENT LECS A SUFFICIENT MECHANISM TO RECOVER THESE ACCESS CHARGES WOULD OFFSET SOME OF THE HARMS TO RURAL BROADBAND.

The comments revealed agreement that if the Commission proceeds with its proposed course of action, incumbent LECs do not currently have an adequate or feasible way to recover these costs and should not be left holding the bag.[22] In other words, the Commission must adopt rule changes to implement a recovery mechanism. For instance, CenturyLink explains "that the Commission must also ensure that carriers have the ability to recover their lost revenues via their end user charges."[23] In the same vein, the Nebraska Rural Independent Carriers explain that if a "carrier can no longer recover its costs via access charges for originating 8YY traffic, then there needs to be an alternative means of recovery, such as a modified, dynamic CAF-ICC-like

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Windstream, Frontier, and NTCA Comments at 12 ("Taking away such revenues now and requiring even greater recovery of costs from small rural customer bases undermines, rather than furthers, the goals of universal service.").

[22] *See, e.g.*, ITTA Comments at 15-17; CenturyLink Comments at 16-20. Somewhat confusingly, one party – Ad Hoc – claims that "no party has provided evidence that a recovery mechanism is necessary," and generally suggests that there is no evidence of costs shifting to consumers. Comments of the Ad Hoc Telecommunications User Committee, WC Docket No. 18-156 at 7 (Sept. 4, 2018). The record is replete with evidence rebutting these claims, and Ad Hoc appears to misunderstand the complexities of incumbent LEC price cap regulation. Simply put, the costs and implicit subsidies associated with 8YY originating access need to go somewhere, and it is well-established incumbent LECs remain regulated on these end user charges.

[23] CenturyLink Comments at 16.

mechanism."[24] So too does AT&T recognize that if carriers like "incumbent" LECs cannot freely price their services, the Commission "should adopt an alternative recovery mechanism."[25]

Recognizing that carriers, including incumbent LECs, need to be able to recover these lost originating access revenues, the Commission indicates "incumbent LECs, like competitive LECs, should be able to recover revenues they may lose as a result of our proposals directly from their end users, subject only to the discipline of the market."[26] Frontier agrees that this goal – allowing incumbent LECs to freely price their voice products – is the appropriate end state. But there remain layers of federal and state regulation that prevent incumbent LECs from freely adjusting prices to address market forces without certain rule changes. For instance, CenturyLink clarifies that the Commission recently has explained that the Commission's "current rules strictly limiting the ability of price cap ILECs to impose interstate end user charges for voice services remain in place."[27] Likewise, "any interstate charges seeking recovery

[24] NRIC Comments at 16.

[25] AT&T Comments at 12.

[26] *FNPRM* ¶ 63.

[27] CenturyLink Comments at 18 (citing *Technology Transitions; USTelecom Petition for Declaratory Ruling that Incumbent Local Exchange Carriers Are Non-Dominant in the Provision of Switched Access Services; Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers,* Declaratory Ruling, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd 8283 ¶ 36 (2016) ("*Technology Transitions Order*"); *see also* 47 C.F.R. §§ 69.1, 69.4, 69.152, 51.915(e). As CenturyLink explains "The Commission's rules currently restrict price cap ILECs, when it comes to end user charges, to those charges specified in the Commission's rules (i.e. SLC and ARC charges)." CenturyLink Comments at 18. "And, those rules currently subject the imposition of even those limited end user charges to the conditions contained in the Commission's rules (e.g. underlying eligible revenue calculations and SLC and ARC caps)." CenturyLink Comments at 18-19.

for intrastate costs are governed by state law."[28] As Frontier has explained in this docket: "Frontier's interstate end-user rates are still effectively capped, and, indeed, still go into Frontier's overall price cap filing. Additionally, many of Frontier's 29 states prevent or otherwise regulate price increases."[29]

The Commission's decision and underlying rationale in adopting an access recovery mechanism with the access reforms in the 2011 *USF/ICC Transformation Order* ring every bit as true today.[30] The Commission's recent decision finding incumbent LECs non-dominant in interexchange service, while an important symbolic step, does not change any of that calculus. As the Commission explained in 2011, "regulatory constraints on their pricing and service requirements otherwise limit their ability to recover their costs."[31] As the Commission continued, "incumbent LECs have limited control over the areas or customers that they serve, having been required to deploy their network in areas where there was no business case to do so absent subsidies, including the implicit subsidies from intercarrier compensation."[32] While the

[28] CenturyLink Comments at 18 (citing *Technology Transitions Order* ¶ 56) ("These 'constraints' include federal and state law requirements that limit the revenues incumbent LECs can recover from their end user telephone subscribers.").

[29] *Frontier May 31 Ex Parte* at 2.

[30] *See Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform - Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663, 17907 ¶ 862 (2011) ("*USF/ICC Transformation Order*").

[31] *Id.*

[32] *Id.*

Commission continues to transition to an explicit Connect America Fund ("CAF") mechanism and has improved the administrative burdens associated with upgrading certain legacy facilities, incumbent LECs are still not free to simply leave markets, even if they are unprofitable.[33] As the Commission concluded in 2011, "incumbent LECs are limited in their ability to increase rates to their local telephone service customers as a whole to offset reduced implicit subsidies," such as 8YY originating access here.[34]

Like CenturyLink, Frontier supports exploring the many changes needed to give incumbent LECs full competitive pricing flexibility on its voice products. Frontier shares CenturyLink's sentiment: "Ideally, this would be accomplished by having the Commission make the necessary changes in the law to give ILECs flexibility to impose unregulated end user charges subject only to the discipline of the market."[35] And Frontier would be committed to working with the Commission and others through the necessary state and federal changes to ensure full relief. In the meantime, if the Commission pursues 8YY changes prior to offering incumbent LECs full pricing flexibility at the state and federal levels, a recovery mechanism is necessary.

Adjusting the access recovery mechanism from the 2011 *USF/ICC Transformation Order* would be relatively straightforward, requiring the Commission to adjust the 10% annual decline

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[33] Frontier, for example, retains the high-cost obligation in all of its rural wirecenters. And even as, for example, certain other carriers assume the obligation in certain census blocks through mechanisms such as the CAF 2 auction, census blocks where Frontier retains the obligation remain littered throughout high-cost wirecenters. In other words, even though exit would be theoretically profitable if a certain wirecenter were losing money, the historical obligations and continued state obligations make that type of action impossible.

[34] *See USF/ICC Transformation Order* ¶ 862.

[35] CenturyLink Comments at 16.

on eligible recovery, and the caps on the access recovery charge, subscriber line charge, and overall residential line charge. Turning first to the annual eligible recovery reduction, as ITTA explains, "the Commission should freeze the annual 10 percent straight-line decline in Eligible Recovery" under 47 C.F.R. § 51.915(a)(10).[36] The Eligible Recovery is the amount price caps are authorized to recover through their access recovery charges. At a minimum, the Commission should offset "the annual reduction relative to the amount of revenues lost as a result of the transition of 8YY access charges to bill-and-keep."[37] Such an offset would need to account for all 8YY originating access reductions suffered, including those associated with database query charges.

The Commission would also need to adjust the access recovery charge cap, the $30 residential rate ceiling, and the SLC multi-line business cap. Currently, incumbent price cap LECs are subject to a $30 residential rate ceiling pursuant to 47 C.F.R. § 51.915(a)(12). As CenturyLink explains, "[f]or all the reasons . . . justifying total deregulation of price cap ILEC end user rates, it also makes sense to now eliminate the overall $30.00 rate cap.[38] Likewise, the current access recovery charge is capped pursuant to 47 C.F.R. § 51.915(e)(5) and should be adjusted to allow for recovery of these access charge losses. Finally, for multi-line business

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[36] ITTA Comments at 19; *USF/ICC Transformation Order* ¶ 879

[37] ITTA Comments at 19; *see also* CenturyLink Comments at 19 ("[D]efining an additional "Eligible Recovery" amount establishing the amount of revenue that ILECs are permitted to recover as a result of this 8YY reform.").

[38] CenturyLink Comments at 20.

customers, there is a cap on the amount of the subscriber line charge plus access recovery charge under 47 C.F.R. § 69.152(d) that should be adjusted.[39]

To the extent there are concerns about adjusting these rules, these are the steps necessary to put incumbent LECs on a level playing field to accommodate these reforms and reflect the costs of shifting "toll-free" calls from businesses and IXCs to end users. Moreover, as ITTA explains "nearly seven years have elapsed since adoption of the *USF/ICC Transformation Order and FNPRM* and establishment of the residential rate cap, and raising the cap would account for price changes during that time as well as potential increases in state, local and other components of residential rates that are factored into whether the cap has been reached."[40] In many ways, it is otherwise time to revisit these pricing restrictions to place incumbent LECs on a more level footing in the residential voice market, and these are the minimum steps necessary if the Commission goes forward with full scale 8YY originating access reform.

V. ANY PHASEDOWN PERIOD MUST INCORPORATE DATABASE QUERY CHARGES.

As Frontier explained in its joint comments with Windstream and NTCA, "[a]dopting the lowest rate in the country," $0.0015, "without sufficient explanation or examination of these and other factors, would be arbitrary and capricious."[41] Others agree. For instance, West explains "picking a rate cap on the basis of the lowest rate in a list of query rates that are individually and

[39] *See USF/ICC Transformation Order* ¶ 37 ("Specifically, carriers cannot charge a multi-line business customer an ARC when doing so would result in the ARC plus the existing SLC exceeding $12.20 per line.").

[40] ITTA Comments at 18-19.

[41] *Windstream, Frontier, and NTCA Comments* at 12.

asymmetrically determined" is arbitrary.[42] Charter explains that rates "might be artificially deflated for any number of reasons," and "[t]o best approximate the actual cost providers incur in querying the database, the Commission should select the average rate."[43] Similarly, NCTA notes that costs may "differ significant," and thus, the Commission should "set any cap at a rate based on the average of all carriers' current database query charges."[44]

However, if the Commission does move forward with a very low database query rate, the Commission also asks whether any cap should be subject to a phasedown.[45] Frontier answers that question with a resounding yes. In the *USF/ICC Transformation Order*, the Commission stated its clear "commitment to avoid flash cuts" and to do so, instituted a phasedown period.[46] As Frontier has previously explained, the fact that the proposed end result is not $0 immediately does not mean that the change would not represent a "flash cut."[47] Including database query charges in any phasedown period is essential here too to avoid flash cuts and ensure a smooth transition for both carriers and customers.

Others also recognize the necessity of including database query charges in a phasedown. For instance, in urging the Commission to "adopt a reasonable transition," CenturyLink agrees

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[42] West Comments at 21.

[43] Charter Comments at 9.

[44] Comments of NCTA – The Internet & Television Association, WC Docket No. 18-156 at 6 (Sept. 4, 2018).

[45] *FNPRM* ¶ 71.

[46] *USF/ICC Transformation Order* ¶¶ 801-802.

[47] *See Frontier May 31 Ex Parte* at 2.

that "for database query rates . . . the 'standard tool' of a gradual transition should be used."[48] As Comcast explains, there should be a reasonable phasedown, and this "gradual reduction will reduce potential rate shock given that the national weighted average 8YY database dip query charge is almost three times as high as the rate the Commission proposes."[49] Charter also believes the Commission "should provide for a reasonable period to transition to those rates so that providers can better determine how to accommodate those changes."[50]

This chorus of commenters represents substantial record support for including database query charges in any phasedown.

VI. IF THE FCC PROCEEDS DOWN THIS PATH, IT MUST ADOPT A SUFFICIENT TRANSITION PERIOD MORE SIMILAR TO THE COMMISSION'S PREVIOUS TRANSITIONS.

Should the Commission decide to adopt bill-and-keep, there is widespread agreement that it must ensure a sufficient transition period to provide the industry with time to adapt to the new regulatory landscape.[51] A gradual transition is essential, as Charter explains, because it "would allow providers time to better analyze potential reforms and changes to access policies and assess how to accommodate bill-and-keep in their charges to consumers and the changes that must be made to carriers' investment and expenditures."[52] Indeed, in proposing a three-step, two-year

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[48] CenturyLink Comments at 13.

[49] Comments of Comcast Corp., WC Docket No. 18-156 at 6 (Sept. 4, 2018).

[50] Charter Comments at 9.

[51] *See, e.g.*, Charter Comments at 7; ITTA Comments at 17; NCTA Comments at 4.

[52] Charter Comments at 7.

transition period, the Commission acknowledges that a transition period is warranted.[53] According to the Commission, this proposed three-step, two-year, transition period "would be consistent with the Commission's decision, in the *USF/ICC Transformation Order*, to adopt a glide path to a bill-and-keep methodology for many terminating access charges."[54]

However, in the *USF/ICC Transformation Order*, the Commission set a more gradual and more than twice as long six-year transition for price cap carriers, in addition to a nine-year transition for rate-of-return carriers, reflecting its steadfast "commitment to avoid flash cuts."[55] Specifically, the Commission chose this transition period to "strike[] an appropriate balance that will moderate potential adverse effects on consumers and carriers of moving too quickly from the existing intercarrier compensation regimes."[56]

Frontier appreciates the Commission's commitment to avoiding flash cuts, and the same logic and considerations apply to 8YY originating access today as terminating access in 2011, so a similar transition period should be put into place. As ITTA explains, six years would strike the appropriate balance as it "would match the transition period that price cap carriers had to transition terminating access charges to bill-and-keep under the *USF/ICC Transformation Order and FNPRM*, and is expedited compared to the transition period that rate-of-return carriers have."[57] Similarly, NCTA agrees that in order to "avoid adopting a flash cut," the Commission

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[53] *See FNPRM* ¶ 52.

[54] *Id.*

[55] *USF/ICC Transformation Order* ¶¶ 801-802.

[56] *USF/ICC Transformation Order* ¶¶ 801.

[57] ITTA Comments at 17.

"instead should adopt a reasonable transition to bill-and-keep, similar to the transition adopted for terminating access charges in the 2011 reforms."[58]

Especially given the Commission's continued commitment to avoiding flash cuts, a transition more similar to the Commission's previous six-year transition for terminating access rather than a three-step, two-year, transition proposed here, would promote the public interest.

VII. CONCLUSION.

For the foregoing reason, by first leveraging the tools readily at the Commission's disposal to target the roughly twenty bad actors engaging in 8YY arbitrage, the Commission can avoid significant harms to rural broadband deployment. If, nonetheless, the Commission moves forward with upending the 8YY toll-free system, adopting an access recovery charge and a sufficient transition period similar to the six-year period adopted in 2011 would help avoid the worst harms to broadband deployment.

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[58] NCTA Comments at 4.